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February 14, 2000

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Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Attention: Rulemakings and Adjudications Staff

Subject: Comments on Petition for Rulemaking

- References:
- (1) Nuclear Energy Institute Letter, "Petition for Rulemaking; Request for Comments on Work Hour Limits (64 Fed. Reg. 67202; December 1, 1999)," dated February 14, 2000
 - (2) Winston & Strawn Letter, "Comments on Petition for Rulemaking dated September 28, 1999 filed by Mr. Barry Quigley, 64 Fed. Reg. 67202 (December 1, 1999), PRM-26-2," dated February 14, 2000

DOCKET NUMBER
PETITION RULE PRM 26-2
(64 FR 67202)

Commonwealth Edison (ComEd) Company is pleased to have the opportunity to comment on the Petition for Rulemaking on 10 CFR 26, "Fitness for Duty Programs," [Docket No. PRM-26-2], (64 FR 67202). We fully endorse the comments of the Nuclear Energy Institute (NEI) and Winston & Strawn, by letters dated February 14, 2000.

We have carefully reviewed the proposals and bases presented in the petition and have concluded that the requested action is unjustified and, therefore, unnecessary. Contrary to the claim of the petition that the lack of a significant event due to fatigue should not be a basis for not pursuing rulemaking, the NRC has already taken appropriate and effective action in the form of Generic Letter 82-12, "Nuclear Power Plant Staff Working Hours," and 10 CFR 26, "Fitness for Duty Programs," both of which establish the guidelines for controlling overtime and detecting fatigue in workers. We consider that these actions have been effective based on a review of root causes associated with significant events at the ComEd nuclear stations. Specifically, a review of Human Performance Event root cause reports and a review of the work history of individuals involved in events has shown that no human performance event, at any one of our nuclear stations, has been attributed to overtime or worker fatigue.

ComEd believes that it is incumbent on Management to effectively, efficiently and safely, manage the workforce. The overtime guidance currently given in Generic Letter 82-12 provides reasonable guidance to prevent situations where fatigue could reduce the ability of operating personnel to keep the reactor in a safe condition.

While well intentioned, the proposed overtime rules are complex and would be extremely difficult to manage with unproven benefit. The current NRC guidelines together with well-structured administrative procedures provide sufficient safeguards against worker fatigue.

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Furthermore, the claim in the petition that a significant fraction of the four categories of human error events in the NRC's Human Factors Information System (HFIS) is due to fatigue is pure speculation. There is no basis presented to support this conclusion. In fact, studies by utilities and independent consultants have shown that one of the predominant causes of human errors is workers not verifying/validating what they think is the right way to perform a particular task.

With regard to the latent effects of fatigue, such as valve mispositioning and procedures with technical errors, the quality assurance programs at nuclear power plants require independent review of manipulations of safety-related equipment and changes to key procedures. More importantly, a review of the causes of equipment mispositioning and procedure problems has not shown fatigue to be a contributor.

For the reasons discussed above, we have concluded that the petition should not be granted. We do suggest, however, that an NRC-industry effort to clarify the overtime guidelines may be beneficial.

If you have any questions, please contact me at (630) 663-7330.

Respectfully,

A handwritten signature in cursive script, appearing to read "R. M. Krich for".

R. M. Krich
Vice President – Regulatory Services